P.R. No. 1794/06
Presented by Shri ...
dated ...

(3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.) Single Bench

CIVIL REVISION NO. 100 **/2006**

APPLICANT : Shyamlal Shrivas
PLAINTIFF Aged about 37 years
S/o. Lachhi Ram Shrivas
R/o. Chhotupara, Tahsil
Kawardha, Distt. Kabirdham

VERSUS

RESPONDENT : Uttam Kumar, aged about
DEFENDANT 33 years, S/o. Panchu Ram
Shrivas, R/o.Daihandih,
Tahsil Kawardha, District
Kabirdham (C.G.)

CIVIL REVISION UNDER SECTION 115 OF CIVIL PROCEDURE CODE

XI-HC-78

(48)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक C.R. No. 100 सन् 2006

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	08.03.2007 Applicant by Shri Harsh Vardhan Sharma, Advocate. Heard on admission. The applicant is aggrieved by an order dated 17.03.2006 passed by Additional District Judge (FTC), Kabirdham in Misc. Case No. 4 of 2005 whereby the application filed by the defendant/non-applicant herein for setting the *ex parte* decree passed against him in Civil Suit No. 2-B/2003 on 07.02.2005 was allowed. Learned counsel for the applicant has placed reliance on *Basant Singh & another Vs. Roman Catholic Mission* AIR 2002 SC 3557. I have perused the impugned order which is a speaking order and contains cogent and justifiable reason for setting aside the *ex parte* decree. Learned counsel for the applicant did not dispute the fact that the defendant/respondent was not cross-examined on his affidavit which stated that he never refused any registered notice sent by the Court. The Postman or the witness Govind Prasad in whose presence the registered notice was refused, were also not examined. A summons along with a copy of the application was also not sent to the defendant. The only	

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक C.R. No. 100 **सन्** 2006

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

summon which was issued by the Court against the defendant was returned unserved as the defendant was not available at the address given which supported the stand taken by the defendant that he had gone to Gandhidih for earning his livelihood.

Learned counsel for the applicant has not been able to demonstrate that learned Additional District Judge (FTC) has acted in the exercise of his jurisdiction illegally or with material irregularity, or has exercised jurisdiction not vested in it by law or has failed to exercise a jurisdiction so vested. The case law cited by the learned counsel does not apply to the present case and is clearly distinguishable.

In this view of the matter, this Civil Revision is dismissed at the stage of admission.

M.C.P.No.1153 of 2006 for stay of the proceedings also stands dismissed.

Sd/-
Dilip Raosaheb Deshmukh
Judge

P.T.O.